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MESSAGE DATE: 04/09/1992

MESSAGE STATUS: Active

CATEGORY: Countervailing

TYPE: ADM

PUBLIC ☒

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SUB-TYPE:

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EFFECTIVE DATE:

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PERIOD OF REVIEW:

TO

PERIOD COVERED: 03/12/1992 TO

Notice of Lifting of Suspension Date:

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: ENTRY REQUIREMENTS FOR SOFTWOOD LUMBER FROM CANADA SUBJECT TO
THE PRELIMINARY CVD DETERMINATION

MESSAGE NO: 2100111

DATE: 04 09 1992

CATEGORY: CVD

TYPE: ADM

REFERENCE: 2073111

REFERENCE DATE: 03 13 1992

CASES: C - 122 - 816

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PERIOD COVERED: 03 12 1992 TO

LIQ SUSPENSION DATE:

TO: DIRECTORS OF FIELD OPERATIONS
PORT DIRECTORS

FROM: DIRECTOR, SPECIAL ENFORCEMENT

RE: ENTRY REQUIREMENTS FOR SOFTWOOD LUMBER FROM CANADA
SUBJECT TO THE PRELIMINARY CVD DETERMINATION

There have been allegations that entry/entry summaries of softwood lumber from Canada which are subject to countervailing duty are not being handled uniformly by field personnel. This EMAIL will address some of the issues which have arisen concerning entry requirements for softwood lumber from Canada subject to the preliminary determination of the Department of Commerce which imposed bonding requirements in the amount of 14.48% on importations of this merchandise. The determination was published in Federal Register, Vol. 57, No.

The issues of contention and our position regarding them are as follows. Included are source references in support of the positions stated below.

ISSUE 1: Freight adjustments to entered value.

POSITION: Any adjustment for freight charges should be based on actual freight charges, not theoretical freight charges (HQ message 2073111 dated 031392). If freight charges are subject to rebates, the amounts rebated should not be deducted if known at time of summary filing. If unknown, it is the responsibility of the importer of record to provide rebate information to Customs when it becomes available.

ISSUE 2: Value for determining bond liability.

POSITION: The bond liability is based on the Customs entered value. The Customs entered value of imported merchandise is determined in accordance with the definition in Section 402, Tariff Act of 1930, as amended (19USC1401a)(CD3550-33 dated May 24, 1989).

ISSUE 3: Invoice requirements.

POSITION: An invoice is required for each shipment. The type of invoice required and the required content of invoices are addressed in 19CFR141.83 AND 141.86. The use of pro forma invoices is addressed in 19CFR141.85. The information required on pro forma invoices does not differ from that required on commercial invoices.

Some brokers and shippers have suggested that Customs should accept pro forma invoices which contain only a 'net' value at FOB mill basis, although the actual sale occurs at 'delivered, duty paid' terms. In this scenario, the shipper

would deduct freight, duty, brokerage, and the CVD margin from the delivered, duty paid price to determine a value equivalent to FOB mill terms. The 'invoice' presented to Customs would contain only that 'adjusted' price and perhaps a statement that identified charges are billed on the commercial invoice.

There is no provision of law or regulation which would permit such a procedure.

ISSUE 4: Shipments involving more than one sale for export to the U.S.

POSITION: Where this occurs, the Customs entered value is based on the sale which most directly results in exportation to the United States. There are various practices which may be used among the Canadian mills, wholesalers, buyers, etc. Each particular set of circumstances needs to be examined in order to determine the proper basis of entered value. The invoices should set forth the details of the transactions in order for Customs to make the proper determinations.

ISSUE 5: Right to make entry.

POSITION: Only the owner, purchaser, or a licensed Customs broker may make entry and appear on entry documents as importer of record. A licensed Customs broker may do so only when designated by the owner, purchaser, or consignee of the merchandise (19USC1484, CD 3530-02 DATED 110684). Therefore, a shipper or seller can act as importer of record only if they own the imported merchandise at the time of its arrival in the U.S. Their appearance as a consignee on the shipping documents, absent ownership, only allows them to

designate a licensed Customs broker to act as importer of record on their behalf. In those cases, the broker's bond is liable for all entry requirements.

ISSUE 6: Deduction of estimated CVD from the invoice price

to make entered value.

POSITION: In order to be deductible the CVD amount must be included in the price and be identified as such (HQ letter 543963). In order to be deducted, the CVD margin must actually be paid as estimated duties on the entry summary, i.e., cash deposit. If the CVD amount is covered by a bond, the estimated CVD included in the price may not be deducted but, a) the cost of the bond may be deducted, and b) the amount of the final CVD margin would be deducted by Customs during the assessment of any countervailing duties against the entry summary

If there are other issues raised which are not covered by this message, please contact the Import Specialist Division, other Agency Branch, via EMAIL or at FTS/202 535-4931 and we will forward these inquiries to the Office of Regulations and Rulings or the Department of Commerce, if appropriate.

C.L. Brainard
Director, Office Of Trade Operations

NOTE: THIS MESSAGE WAS INADVERTENTLY NOT POSTED TO ADIL BECAUSE THE PERIOD COVERED IN THE HEADER WAS NOT CORRECTLY COMPLETED SO HAS BEEN POSTED TO ADIL ON DECEMBER 1, 2009. THE ORIGINAL MESSAGE WAS SENT TO REGIONAL DIRECTORS, COMMERCIAL OPERATIONS, DISTRICT DIRECTORS, AREA AND PORT DIRECTORS, NOT DIRECTORS, FIELD OPERATIONS AND PORT DIRECTORS. DIRECTOR, IMPORT SPECIALIST DIVISION IS NOW SHOWN AS DIRECTOR, SPECIAL ENFORCEMENT. THE BALANCE OF THE TEXT AND INFORMATION REMAINS UNCHANGED. THIS MESSAGE WITH THE CORRECTED HEADER HAS BEEN POSTED TO THE ADD/CVD SEARCH APPLICATION ON CBP.GOV.

Company Details

*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party